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MONTANA LEGISLATIVE HISTORY

Chapter 823 1991

Bill H _____ S 226 Original bill & history ✓ C

H. Committee on Taxation		S. Committee on Taxation	
Hearing Date(s) 4/5	✓ C	Hearing Date(s) 2/1	✓ C
4/12	✓ C	3/11	✓ C
	C		C
	C		C
Date Out	C		

Did this bill originate in an interim committee? ____ Yes ✓ No

Committee _____ Report _____

Chapter Page

819 *(House Bill No. 963; Bardanouve)* AN ACT AUTHORIZING THE DEPARTMENT OF INSTITUTIONS TO ENTER INTO A LOAN AGREEMENT WITH THE MONTANA HEALTH FACILITY AUTHORITY FOR THE PURPOSE OF FINANCING THE COSTS OF ACQUIRING, CONSTRUCTING, AND EQUIPPING FACILITIES FOR THE DEVELOPMENTALLY DISABLED AT THE MONTANA DEVELOPMENTAL CENTER IN BOULDER, INCLUDING THE ESTABLISHMENT OF RESERVES AND THE PAYMENT COSTS OF THE FINANCING; AUTHORIZING THE CREATION OF A SPECIAL LIMITED OBLIGATION OF THE DEPARTMENT; APPROPRIATING THE LOAN PROCEEDS; PROVIDING A STATUTORY APPROPRIATION; AUTHORIZING THE PAYMENT OF THE SPECIAL LIMITED OBLIGATION FROM FACILITY REVENUES; AMENDING SECTIONS 17-7-502 AND 53-1-413, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 3285

820 *(House Bill No. 990; S. Rice)* AN ACT APPROPRIATING $700,000 FROM THE GENERAL FUND TO THE DEPARTMENT OF COMMERCE, TO BE USED AS MATCHING FUNDS FOR THE DEVELOPMENT AND CONSTRUCTION OF A LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER; AND PROVIDING AN EFFECTIVE DATE. 3288

821 *(Senate Bill No. 154; Nathe)* AN ACT CLARIFYING THAT STATUTORY LEGISLATIVE IMMUNITY EXTENDS ONLY TO LEGISLATIVE BODIES OF GOVERNMENTAL ENTITIES AND ONLY TO LEGISLATIVE ACTIONS TAKEN BY THOSE BODIES; CLARIFYING THAT GOVERNMENTAL ENTITIES ARE NOT IMMUNE UNDER THE LEGISLATIVE IMMUNITY STATUTE FOR NONLEGISLATIVE ACTIONS; CLARIFYING THAT THE ACQUISITION OF INSURANCE DOES NOT WAIVE IMMUNITY; AMENDING SECTION 2-9-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 3289

822 *(Senate Bill No. 222; Van Valkenburg)* AN ACT CHANGING THE ELIGIBILITY REQUIREMENTS FOR RETIREMENT UNDER THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM; PROVIDING THAT MEMBERS WHO TERMINATE COVERED EMPLOYMENT AFTER 10 YEARS AND WHO REMAIN MEMBERS MAY BECOME ELIGIBLE TO DRAW A RETIREMENT BENEFIT UPON REACHING THE AGE OF 50; AMENDING SECTIONS 19-9-104, 19-9-801, 19-9-802, 19-9-804, 19-9-902, 19-9-903, 19-9-911, AND 19-9-1011, MCA; AND PROVIDING AN EFFECTIVE DATE. 3290

823 *(Senate Bill No. 226; Harp)* AN ACT TO RESTRUCTURE THE INCOME TAX ON PENSION BENEFITS BY EQUALIZING THE TAXATION OF ALL PENSION BENEFITS; TO PROVIDE AN EXEMPTION OF $3,600 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE, AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE THAT THE AMOUNT OF THE EXEMPTION BE REDUCED BY $2 FOR EVERY $1 OF FEDERAL ADJUSTED GROSS INCOME RECEIVED BY THE TAXPAYER IN EXCESS OF $30,000; TO PROVIDE FOR AN ADJUSTMENT PAYMENT TO RETIREES OF STATE, LOCAL, AND TEACHER RETIREMENT SYSTEMS WHO ARE MONTANA RESIDENTS; TO DIRECT A STUDY OF THE TAXATION OF RETIREMENT BENEFITS; TO PROVIDE A STATUTORY APPROPRIATION FOR ADJUSTMENT PAYMENTS; AMENDING SECTIONS 15-30-101, 15-30-111, 15-30-136, 17-7-502, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003, AND 19-21-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 3296

824 *(House Bill No. 982; O'Keefe)* AN ACT INCREASING THE SCHOOL MAXIMUM BUDGET SCHEDULES BY 2 PERCENT EACH FISCAL YEAR; APPROPRIATING FUNDING FOR THE SCHEDULE INCREASES; AMENDING SECTIONS 20-9-316, 20-9-317, 20-9-318, AND 20-9-319, MCA; AND PROVIDING AN EFFECTIVE DATE. 3310

4/02	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/03	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 363	EFFECTIVE DATE: 4/06/91	

SB 226 INTRODUCED BY HARP

REVISE RETIREMENT INCOME TAX EXEMPTION TO $3,600 EXCLUSION

BY REQUEST OF DEPARTMENT OF REVENUE

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	FISCAL NOTE REQUESTED		
1/31	REFERRED TO TAXATION		
2/01	HEARING		
2/04	FISCAL NOTE RECEIVED		
2/04	FISCAL NOTE PRINTED		
3/11	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/12	2ND READING PASSED	31	18
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	TRANSMITTED TO HOUSE		
3/14	FIRST READING		
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3/22	REVISED FISCAL NOTE REQUESTED		
3/25	REVISED FISCAL NOTE RECEIVED		
3/27	REVISED FISCAL NOTE PRINTED		
4/05	HEARING		
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4/12	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
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4/23	FREE CONFERENCE COMMITTEE REPORT NO. 1		
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5/03	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 823	EFFECTIVE DATE: 5/24/91	

SB 227 INTRODUCED BY YELLOWTAIL

LIMIT TO 500 THE GAMBLING MACHINES A DISTRIBUTOR CAN HAVE AN INTEREST IN

1/29	INTRODUCED
1/30	REFERRED TO JUDICIARY
1/30	FIRST READING
2/08	HEARING
2/12	TABLED IN COMMITTEE

Senate BILL NO. 226

INTRODUCED BY HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO RESTRUCTURE THE INCOME TAX ON PENSION BENEFITS BY EQUALIZING THE TAXATION OF ALL PENSION BENEFITS; TO PROVIDE A $10,000 EXCLUSION FROM NET INCOME FOR TAXPAYERS WITH A TOTAL FEDERAL ADJUSTED GROSS INCOME OF $35,000 OR LESS; AMENDING SECTIONS 15-30-101, 15-30-111, 15-30-136, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, AND 19-21-212, MCA; REPEALING SECTIONS 19-9-1005 AND 19-13-1003, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** **Retirement income exclusion.** (1) A single person or married couple filing a joint return or separately on the same return may exclude from net taxable income up to $10,000 of pension and annuity income, subject to the following limitations:

(a) the taxpayer's total federal adjusted gross income must be $35,000 or less;

(b) the pension and annuity income to be excluded is of the type defined in 15-30-101(13); and

(c) the amount of the exclusion is the amount of both pension and annuity income received, but the exclusion may not exceed $10,000.

(2) The $35,000 federal adjusted gross income limit in this section applies to either the single person's federal adjusted gross income or the married couple's combined federal adjusted gross income. In the case of a married couple, if each person is receiving pension and annuity income, as defined in 15-30-101, and meets the qualifications of subsection (1)(a), then each person may exclude from net income up to $10,000.

Section 2. Section 15-30-101, MCA, is amended to read:

"**15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by subsections (7) and (8) of 15-30-112, in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in

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effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Department" means the department of revenue.

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of

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section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(10) "Knowingly" is as defined in 45-2-101.

(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is

computed under this chapter.

(13) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts after cessation of regular employment received from fully matured, privately purchased annuity contracts.

~~(13)~~(14) "Purposely" is as defined in 45-2-101.

~~(14)~~(15) "Received", for the purpose of computation of

taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(15)~~(16) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(16)~~(17) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(17)~~(18) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(18)~~(19) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 3. Section 15-30-111, MCA, is amended to read:

"**15-30-111. Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or

amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

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~~(c) all benefits, not in excess of $3,600, received:~~

~~(i) under the Federal Employees' Retirement Act;~~

~~(ii) under the public employee retirement laws of a state other than Montana; or~~

~~(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;~~

~~(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;~~

~~(e) all benefits paid under The Public Employees' Retirement System Act which are specified as exempt from taxation by 19-3-105;~~

~~(f) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;~~

~~(g)~~(c) all Montana income tax refunds or credits thereof;

~~(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;~~

~~(i) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005;~~

~~(j)~~(d) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

~~(k)~~(e) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

~~(l)~~(f) all benefits received under the workers' compensation laws;

~~(m)~~(g) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

~~(n)~~(h) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212; and

~~(o)~~(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange".

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be

included in the shareholder's federal income tax adjusted gross income by reason of the election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(6) Married taxpayers filing a joint federal return who

must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(7) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental

impairment lasting or expected to last at least 12 months.

~~(8)--A----person---receiving---benefits---described---in subsections-(2)(d)-through-(2)(f),-(2)(h),-or-(2)(i)-may-not exclude--benefits--described--in--subsection---(2)(c)---from adjusted--gross--income--unless--the-benefits-received-under subsections-(2)(d)-through-(2)(f),--(2)(h),--or--(2)(i)--are less--than--$3,600,--in--which--case--the-person-may-combine benefits-to-exclude-up-to-a-total-of--$3,600--from--adjusted gross---income.~~ (Subsection ~~(2)(k)~~(2)(e) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 4. Section 15-30-136, MCA, is amended to read:

"15-30-136. Computation of income of estates or trusts -- exemption. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for

federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

~~(h)--all-benefits,-not-in-excess-of-$3,600,-received:~~

~~(i)--as-federal-employees'-retirement;~~

~~(ii)-as--retirement--from--public--employment-in-a-state other-than-Montana;-or~~

~~(iii)-as-an-annuity,-pension,-or-endowment-under-private or-corporate-retirement-plans-or-systems;~~

~~(i)--all--benefits--paid--under--the--Montana--teachers' retirement-system-that-are-specified-as-exempt-from-taxation by-19-4-706;~~

~~(j)--all--benefits--paid--under---the---Montana---Public Employees'--Retirement--System--Act--that--are--specified-as exempt-from-taxation-by-19-3-105;~~

~~(k)--all-benefits-paid-under-the-Montana-highway--patrol officers'--retirement--system--that--are-specified-as-exempt from-taxation-by-19-6-705;~~

~~(l)~~(h) Montana income tax refunds or credits thereof~~;~~.

~~(m)--all-benefits-paid-under-19-11-602;--19-11-604;--and 19-11-605-to-retired-and-disabled-firemen-or-their-surviving spouses-or-children;~~

~~(n)--all---benefits--paid--under--the--municipal--police officers'-retirement-system-that--are--specified--as--exempt from-taxation-by-19-9-1005;~~

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202 is not in effect, net income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable

dividends if the subchapter S. election were not in effect.

(4) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts properly paid or credited or required to be distributed for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

~~(6)--A--trust--or--estate---excluding---benefits---under subsections-(2)(i)-through-(2)(k);-(2)(m);-or-(2)(n)-may-not exclude--benefits--described--in--subsection-(2)(h)-from-net income-unless-the-benefits-received-under-subsections-(2)(i) through-(2)(k);-(2)(m);-or-(2)(n)-are-less-than--$3;600;--in which--case--the--trust--or--estate--may-combine-benefits-to exclude-up-to-a-total-of-$3;600-from-net-income;~~"

Section 5. Section 19-3-105, MCA, is amended to read:

"**19-3-105. Exemption from taxes and legal process.** The right of a person to a retirement allowance or any other benefit under this chapter and the moneys in the fund created under this chapter is not:

(1) subject to execution, garnishment, attachment, or

any other process; or

~~(2) subject to state, county, or municipal taxes except for a refund paid under 19-3-703 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-3-701, or~~

~~(3)~~(2) assignable except as in this chapter specifically provided."

Section 6. Section 19-4-706, MCA, is amended to read:

"19-4-706. Exemption from taxation and legal process. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

~~(1) exempted from any state, county, or municipal tax of the state of Montana except for a withdrawal paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;~~

~~(2)~~(1) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

~~(3)~~(2) unassignable except as specifically provided in this chapter."

Section 7. Section 19-5-704, MCA, is amended to read:

"19-5-704. Exemption from taxes and legal process. Any

money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these ~~shall be~~ is exempt ~~from any state or municipal tax and~~ from levy, sale, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in 19-5-705."

Section 8. Section 19-6-705, MCA, is amended to read:

"19-6-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

~~(1) exempt from any state, county, or municipal tax except for a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;~~

~~(2)~~(1) exempt from levy, sale, garnishment, attachment, or any other process; and

~~(3)~~(2) unassignable except as specifically provided in 19-6-706."

Section 9. Section 19-7-705, MCA, is amended to read:

"19-7-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

~~(1) exempt from any state, county, or municipal tax~~

except--for--a--refund--paid-under-19-7-304(1)-of-a-member's contributions-picked-up-by-an-employer-after-June-30,--1985, as-provided-in-19-7-403;

(2)(1) exempt from levy, sale, garnishment, attachment, or any other process; and

(3)(2) unassignable except as specifically provided in 19-7-706."

Section 10. Section 19-8-805, MCA, is amended to read:

"19-8-805. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1)--exempt--from--any--state,--county,-or-municipal-tax except-for-a-refund-paid--under--19-8-503--of--the--member's contributions--picked-up-by-an-employer-after-June-30,-1985, as-provided-in-19-8-502;

(2)(1) exempt from levy, sale, garnishment, attachment, or any other process; and

(3)(2) unassignable except as specifically provided in 19-8-806."

Section 11. Section 19-21-212, MCA, is amended to read:

"19-21-212. Exemption from taxation, legal process, and assessments. All contracts, benefits, and contributions under the optional retirement program and the earnings thereon are:

LC 0825/01

(1)--exempt-from-any-state,-county,-or-municipal-tax;

(2)(1) not subject to execution, garnishment, attachment, or other process;

(3)(2) not covered or assessable by an insurance guaranty association; and

(4)(3) unassignable except as specifically provided in the contracts."

NEW SECTION. **Section 12.** Repealer. Sections 19-9-1005 and 19-13-1003, MCA, are repealed.

NEW SECTION. **Section 13.** Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 14.** Effective date -- retroactive applicability. [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

-End-

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 1, 1991, at 8:00 a.m., Room 325.

ROLL CALL

Members Present:
Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: none

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON SENATE BILL 226

Presentation and Opening Statement by Sponsor:

Senator John Harp, District 4, Kalispell, said he is introducing this bill at the request of the Department of Revenue and is presenting this proposal as a resolution to the problem that arose from expanding tax exemptions for federal retirees as a result of the Davis case. This proposal will solve some of the problems that occurred because of that case. One of the main components of this bill is the ability to recapture a large part of the general fund due to the Davis case. One of the largest concerns is the effect of the Davis case regarding the section of the equation dealing with exclusion from taxation of federal employees retirement income. The bill includes a threshold of $3,600. As a result of the decision, the retirees are

completely excluded from paying taxes on retirement, which is costing the general fund of the state over $14 million. Senate Bill 226 will recapture 69% of the money received prior to the Davis decision. This bill treats all taxpayers and retirees equally. The first $10,000 of retirement income will be excluded. The cap, a threshold of $35,000, is tied to the federal adjusted gross income. Senator Harp indicated he felt the proposal eliminates some of the tax breaks that the upper income taxpayers will receive if there is not a threshold of $35,000. To balance the budget, it is necessary to recapture some of the money lost because of court decisions. He indicated this bill is appropriate because everything is on a fair and equitable plane. Retirement income is the fastest growing income class. In 1987, $180 million was excluded from retirement income. In 1989, it rose to $328 million and the forecast for 1993 is roughly $480 million. He indicated something needs to be done with the growth of retirement income and the effects it will have if we continue to exclude everybody from paying taxes regardless of their ability to pay. The proposal offered by the Administration today is a progressive program, particularly with the $10,000 and $35,000 threshold. It is a middle class proposal, looking at all people, both private and public. Senator Harp indicated that 78% of all those affected will be excluded because they do not meet the $35,000 threshold. Those who most need tax relief will be receiving under the terms of the bill. This bill is a progressive, fair proposal which attempts to treat everyone on an equal basis. Regarding the issue of PERS and teachers retirement, he felt the Committee will look at the conditions of employment and employment benefits that state employees feel they have been guaranteed. Once the bill is presented to the Committee, it becomes a legislative matter.

Proponents' Testimony:

Denis Adams, Director of the Department of Revenue, stated his support of Senate Bill 226. (See Exhibit 1)

Lou Marquardt, representing Equity in Taxation, stated his support of Senate Bill 226. He said it is not exactly written the way Mr. Adams described it when he met with the House Taxation Committee, but they support the bill.

Tom Harrison, representing the Montana Society of Certified Public Accountants, said he wanted to address the nondiscriminatory portion of the bill which indicates private and public retirees would be treated equally. The Society endorses that concept. He felt the level should be determined by the legislature.

Opponents' Testimony:

Gene Huntington, Montana Retired Teachers Association, stated his opposition and noted that any solution to the Davis

case needs to deal with the benefits that teachers will receive. In general, this bill does not deal with the benefit side of the equation. He stated the Administration has given numbers which MRTA feels somewhat distort the pension levels of the public systems. He noted their average retiree receives $8,271 a year, and some of the numbers appear to give people a much higher level.

Leo Berry, Association of Montana Retired Public Employees, stated there are some advantages to this bill. It partially recaptures the tax on federal employees which was lost due to the Davis case and helps balance the budget. There are some flaws in the bill but the Association is encouraged that both the Administration and Senator Harp are willing to work to resolve some of the them. He noted the bill fails to recognize any employment relationship between the state of Montana, counties, and cities and their employees. He stated that is the fundamental issue to be debated on each of these bills. The court ruled that the tax exemption granted to public employees is a benefit of employment, and the bill takes that away; it fails to recognize that and severs the relationship. Also, it grants a $10,000 exemption if the income level is under $35,000 per household (not individually), and that severs a relationship between the employee and his tax exempt benefit. A similar bill is being drafted that he feels more equitably resolves the employment relation problem.

Ed Sheehy, retired federal employee, said prior to the bill's introduction, he discussed it with the Director of the Department of Revenue. He stated at that time his principal objection was the definition of threshold. Any threshold that does not include social security as part of the base is unfair to federal retirees, and it is unfair to the police and firemen in this state who do not have social security.

Tom Bilodeau, Research Director, Montana Education Association, stated his opposition to the bill. He said this retirement benefit is part of the compensation package promised to state employees and school district employees. This bill will tax the benefits used to provide the compensation increase in 1985. Clearly, retirement benefits are part of the compensation package and can't be ignored six years later. He said the adverse impact on retirees is substantial. (See Exhibit 2)

Alvin Svalstad, American Association of Retired Persons, stated his opposition to Senate Bill 226, and his support of the Montana Teachers Association position on exemption of pensions from state taxation.

John Malee, representing the Montana Federation of Teachers, and Montana Federation of Public Employees, went on record stating their opposition to Senate Bill 226.

Jess Long, School Administrators of Montana, stated his

middle incomes and people who don't benefit in the upper income category. He said the Administration understands this and knows the people with the ability to pay and those who do not have an adequate retirement income.

Senator Towe questioned Mr. Berry regarding the difference between the estimated $20 million cost of this proposal and saving $6 - $7 million dollars without the cap.

Mr. Berry said his members don't like any part of this bill and the cap is immaterial to them. He said he understood the logic behind it the principle of a cap, but they have not discussed that issue. He said they have a fundamental problem with the concept of "household". He felt the board would not oppose a cap if it applied to an individual. There is a basic difference in the philosophy of this bill and the other bill being drafted in terms of employment relationship and an individual's tax obligations as opposed to a household.

Closing by Sponsor:

Senator Harp said he hoped the opponents of this bill will realize the impact of doing nothing as they try to balance the budget in this session. If the state has to come up with an additional $20 million to balance the budget, they better be willing to look at cuts in medicaid, reductions in school funding, and other hard decisions. He said this proposal by the Administration is fair. It puts the public and private sector on equal ground. He feels the threshold is a progressive element of this bill and it takes care of people who can least afford an additional tax increase.

HEARING ON SENATE BILL 218

Presentation and Opening Statement by Sponsor:

Senator Dorothy Eck, District 40, Bozeman, said SB 218 builds on work the Committee did in the 1989 regular and special session and is an attempt to be fair to everyone involved. She stated her belief that our tax policy is based on fairness and equity for everyone. This bill treats all federal, state, local and private retirees the same by allowing $3,600 yearly exemption. It will have a smaller impact on the general fund than would a $10,000 or $12,000 exemption. The bill also recognizes the state's obligation to compensate the retired teachers and state employees for the loss of their state income tax exemption. She said this is a benefit we have promised them and we have a moral obligation to follow through on it as far as we are legally able to do it. She noted Section 1 of the bill is the only new major section with the exception of two technical sections at the end of the bill. This bill provides a

COMMITTEE ON Taxation SB 218 SB 226

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
John Malee	MFH MFDE	218-226		X
Hugo Andersen, Jr.	T.R.S.	218 & 226		X
Bonnie Andersen	T.R.S.	218-226		X
Barbara Crebo	T.R.S	218-226		X
Montez M. Briggs	P.E.R.S.	218-226		X
Denis Gibson	DOR			
Lou Marquardt	ET	218-226	X	
Fred (Ha Ha)	AARP	218-226		X
Opal Holm	RTeachers			
Dee Mauss	Self	218-226		X
Dagmar Butzell	NARFE			
Thelma Jones	NARFE			
Edward W. McCurdy	SELF	218-226		X
Mary L Craig	ET	218-226	X	
Tom Ryan	B-T	215 226		X
Ed Kelly A.	MD-NARFE	2-4		X
Alice Thompson	RTA	218-226		X
Mary R. Smith	NARFE	218-226		X
George H McGovern	NARFE Chap. 107 Gt Fl	218-226		X
B D Scanlan	NARFE Chap 107	218-226		X
Grant H. Meinert	NARFE CHAP. 107	218-226		X
Jesse W Long	School Admin of MT	218-226		X
Allyn B Gustafson	AARP	218-226		X
John Kostas	NARFE	218226		X
Robert T. DeLuca	NARFE Chap. 107	218-226		X
Mrs Ellen Chambers	self	218-226		X

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Dennis Burr	MT TAXPAYERS Assoc	218		✓
William R. Chambers	Self	218		✓
Margaret Hayes	NARFE, MSEA	218		✓
Ed Sheehy	NARFE MSEA	218		✓
Ed Sheehy	NARFE MSEA	226		✓
Alice Otten	NARF	218		✓
Alice Otten	NARF	226		✓
Tom Schneider	MPEA	218		✓
		226		✓
Val Matross	Ret. Teachers	216-226		✓
TOM BILODEAU	MEA	218 226		X
Tom Schneider	MPEA	SB124		X
Kay Owens	AMRPE	216-226		X
Richard Ellerson	"	"		X
George O. Porter	"	216-226		X
Dave Huntington	Retired Teacher		218	226
J.H. Hamilton Jr.		218-226	✓	
Lloyd E Lamb Jr.		218-226	✓	

(Please leave prepared statement with Secretary)

SENATE TAXATION
EXHIBIT NO. 1
DATE 2/1/91
BILL NO. SB 226 & 218

February 1, 1991

NOTES FOR SENATE TAX COMMITTEE HEARING ON PENSION TAXATION:

WE HAVE LOOKED AT A LOT OF OPTIONS FOR RESOLVING THE DAVIS CASE AND THE PROBLEMS IT HAS CREATED FOR THE STATE OF MONTANA AND WILL CONTINUE TO LOOK AT OTHER VARIATIONS AS THIS ISSUE WORKS IT WAY THROUGH THE LEGISLATURE.

WE SUPPORT SENATE BILL 226 BECAUSE IT ADDRESSES THREE ISSUES WHICH WE FEEL ARE VITAL IN THE RESOLUTION OF THE DAVIS CASE:

1. IT RECAPTURES THE MAJORITY OF THE GENERAL FUND LOST BY THE ACTION OF THE U.S. SUPREME COURT

2. IT TREATS ALL RETIREES WITH QUALIFIED RETIREMENT PLANS EQUALLY.

3. IT ELIMINATES THE RETIREMENT INCOME EXCLUSION FOR THOSE HOUSEHOLDS WITH ABOVE AVERAGE INCOMES. *(WE HAVE A NUMBER OF OTHER EXCLUSIONS AND CREDITS WHICH PHASE OUT AS A TAXPAYERS HOUSEHOLD INCOME INCREASES)*

SENATE BILL 226 ALSO PROVIDES A DEFINITION OF PENSION AND ANNUITY INCOME. CURRENT LAW HAS RESULTED IN A LOT OF CONFUSION AS TO WHAT QUALIFIES AS *"EXEMPT RETIREMENT INCOME"*. LAST YEAR WE TOOK A "FRIENDLY" APPEAL TO STAB IN AN ATTEMPT TO CLARIFY THE ISSUE. THE RESULT OF THE STAB DECISION WAS EVEN MORE CONFUSION THAN EXISTED PREVIOUSLY. THE DEPARTMENT WAS NOT HAPPY WITH THE DECISION AND NEITHER WAS THE TAXPAYER.

UNDER SENATE BILL 226, THE FOLLOWING NUMBER OF HOUSEHOLDS WOULD BE ENTITLED TO THE EXCLUSION:

PERS	83%
TRS	70%
FEDERAL	73%
PRIVATE	79%

TAXPAYERS QUALIFYING FOR THE RETIREMENT INCOME EXCLUSION UNDER SENATE BILL 226 STILL HAVE AN ADVANTAGE OVER THOSE TAXPAYERS WITHOUT A RETIREMENT PLAN. THEY WILL STILL PAY LESS IN MONTANA INDIVIDUAL INCOME TAXES THAN A TAXPAYER WITH THE SAME INCOME BUT LACKING IN RETIREMENT INCOME WHICH CAN BE EXCLUDED.

SENATE TAXATION
EXHIBIT NO. [ ]
DATE 2/1/91
BILL NO. SB 226 SB 216

IN MONTANA, ONLY 50% OF THOSE ELDERLY TAXPAYERS WHO ARE REQUIRED TO FILE INDIVIDUAL INCOME TAX RETURNS HAVE A PENSION PLAN. MANY ELDERLY DO NOT HAVE ENOUGH NON-SOCIAL SECURITY INCOME TO REQUIRE FILING A RETURN.

IT APPEARS THAT THE TREND WILL CONTINUE IN THAT A LARGE NUMBER OF MONTANANS WILL NEVER HAVE ANY PENSION PLAN. IN 1989, ONLY 15% OF THE ELIGIBLE TAXPAYERS MADE DEDUCTIBLE IRA CONTRIBUTIONS AND THE AVERAGE CONTRIBUTION WAS $1,684.

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE TODAY IN SUPPORT OF SENATE BILL 226. WE ARE PREPARED TO CONTINUE TO WORK WITH THE COMMITTEE ON THIS ISSUE AND ARE CERTAINLY WILLING TO CONSIDER NEW OPTIONS OR VARIATIONS AS THE COMMITTEE COMES TO GRIP WITH THIS ISSUE.

Phase out response

Phase out $30 - $35,000 $1.19 million more

Phase at $35 - 40,000 ($1.65 million) loss

SENATE TAXATION
EXHIBIT NO. 2
DATE 2/1/91
BILL NO. SB 226

Montana Education Association 1232 East Sixth Avenue • Helena, Montana 59601 • 406-442-4250

SB-226 (HARP)
MEA SAYS "NO" TO PERS & TRS PENSION TAXATION

By: Tom Bilodeau, MEA Research Director
February 1, 1991 -- Senate Taxation Cmte

This January, the 1991 Legislature begins formal discussion of proposals to tax Teacher Retirement System (TRS) and Public Employee Retirement System (PERS) pension benefits! In a very real and immediate sense, the value of both current and future TRS and PERS pensions are in jeopardy. The proposed changes in tax status of TRS and PERS retirement benefit income violate an historic trust agreement between retirees and the State of Montana. More pointedly, some of these proposals to tax public employee retirement benefits threaten to reduce the effective buying power of public employee pensions by as much as 6%.

In MEA's view, public retirees simply can't afford a new tax on fixed pensions -- pensions originally set at uncompetitively low levels due to depressed salary levels and pensions that haven't come close to meeting retirees' basic financial needs. MEA says "NO!" to pension taxation and opposes SB226.

The Governor's initial Budget proposed to abolish Montana's income tax exemption for TRS and PERS benefits and to begin taxing the very first dollar of TRS and PERS pension benefits if a "retiree household's" total income (i.e. pension plus all other income) was more than $25,000. For "retiree households" having total annual income of less than $25,000, the Governor proposed to impose a new tax on all but the first $3,600 of pension income. By mid-January and the Governor's State of the State address, the administration's proposal was changed to exempt the first $10,000 of pension benefits if the "retiree household's" total income was less than $35,000. For households having total annual income of more than $35,000, all pension income would be taxed. In somewhat modified form -- the "retiree household" category seems to have been dropped in favor of "single/married" -- SB226 presents the Governor's public pension taxation proposal.

If enacted and implemented, SB226 would effectively reduce the benefit value of a single-filing, public pensioner having $20,000 in total income (all from retirement benefits) by more than $200. The adverse benefit value impact on higher total income taxpayers -- i.e. largely those public retirees with both pension and other income -- would be substantially larger. For these career service Montana retirees, the new tax would immediately negate the nominal take-home paycheck increase resulting from the "employer pick-up and pay" pay-plan of 1985.

AARP

Bringing lifetimes of experience and leadership to serve all generations.

S[illegible] TAXATION
EXHIBIT NO. 3
DATE 2/1/91
BILL NO. SB 226

MONTANA STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Fred Patten
1700 Knight
Helena, MT 59601
(406) 443-3696

VICE CHAIRMAN
Mr. Paul Stengel
Route 2, Box 3040
Miles City, MT 59301
(406) 232-0016

SECRETARY
Mrs. Dorothy Fitzpatrick
Box 174
Sunburst, MT 59482
(406) 937-2451

FEBRUARY 1, 1991

TO : SENATE TAXATION COMMITTEE.

FROM : FRED PATTEN - AMERICAN ASSOCIATION OF RETIRED PERSONS.

RE : SENATE BILL #226 - AN ACT TO RESTRUCTURE THE INCOME TAX ON PENSION BENEFITS BY EQUALIZING THE TAXATION OF ALL PENSION BENEFITS; TO PROVIDE A $10,000 EXCLUSION FROM NET INCOME FOR TAXPAYERS WITH A TOTAL FEDERAL ADJUSTED GROSS INCOME OF $35,000 OR LESS.

THE AMERICAN ASSOCIATION OF RETIRED PERSONS STAND IN OPPOSITION TO THIS BILL WE SUPPORT THE POSITION OF THE MONTANA TEACHERS ASSOCIATION ON THE EXEMPTION OF PENSION INCOME FROM ANY STATE TAXATION.

A.A.R.P. URGES A DO NOT PASS ON SENATE BILL #226.

EXECUTIVE ACTION ON HOUSE BILL 313

Recommendation and Vote:

Senator Gage moved HB 313 Be Concurred In.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 226

Discussion:

Senator Van Valkenburg said it is important to discuss the retirement bills in light of budget balancing concerns as the Senate gets closer to the transmittal date. He suggested providing a $3600 across the board exemption to all retirees. He also said it is important to recognize the historical relationship between Montana public employees and the rest of the population employed in the state. The Montana public employees have been paid at a lower level than the private sector or federal employment. The situation of the Montana public employees has been recognized by the fact that the state affirmatively decided not to tax any of their retirement benefits. Because of the Davis decision and the loss of revenue with respect to retired federal employees, Senator Van Valkenburg felt it would not be possible to continue to provide a total exemption to Montana public employees. His solution is to provide an offsetting increase in benefits to the Montana public employees. He said there may be some legal problems with that provision. The Montana Public Employees Association feels that a bill can be drafted which would withstand any legal challenges.

Senator Van Valkenburg presented a list of options prepared by the Department of Revenue (Exhibit #7). He said in order to get the process moving, he would like to present amendments to Senator Harp's SB 226 which would give a $3600 across the board exemption to all retirees. The amendments would also include a 2% across the board retirement benefit increase to Montana public employees. The net revenue effect of that will be to generate an additional $16.25 million per biennium. He said that is somewhat close to what the Governor's budget envisions.

Senator Harp said he agreed to those provisions in the spirit of bipartisanship. He said it is necessary to make it clear that the intent is to recapture the federal dollars. He felt there would be strong support from the Republicans and, although it is not the approach the Governor prefers, it comes close to accomplishing the same purpose.

Senator Thayer expressed concerns about the lawsuit threatened by the federal retirees. He said he felt the military retiree is entitled to the same treatment as the state employees.

Senator Eck said she felt there would be an advantage to considering two separate bills. One bill would provide a $3600 exemption and another, which could be tied to it, would deal with increases in the retirement benefits. She said this is not a bill to balance the budget and provide revenue to the state. It is old business from two years ago and needs to be resolved now.

Various suggestions were made for different approaches to the bill. Senator Harp said it is impossible to create a perfect package at this point. He felt it would be back to the Senate in one form or another at least one more time as it will be tied to the budget balancing process as it moves ahead.

Amendments, Discussion, and Votes:

Senator Towe moved to amend the bill as per the amendments in attached Exhibit #8. This is essentially a substitute bill.

Leo Barry said the chances are the bill would not survive a legal challenge as the amendments propose.

Senator Harp was concerned with allocating money from the general fund as it is too early to determine where the money will be found. He asked the committee to strike the reference to the general fund.

Senator Towe reviewed the amendments and amended his motion to adopt the amendments presented in the attached standing committee report on SB 226 (Exhibit #9).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved SB 226 Do Pass As Amended.

The motion carried on a roll call vote.

ADJOURNMENT

Adjournment At: 10:00 a.m.

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

TA031191.SM1

SENATE TAXATION
EXHIBIT NO. 7
DATE 3/11/91
BILL NO. SB 226

PROJECTED COST TO "KEEP WHOLE" STATE/LOCAL GOVERNMENT RETIREES AT ALTERNATIVE PERCENTAGES OF BENEFITS

(millions of dollars)

Percentage	FY92	FY93	Biennium
2.0%	2.67	2.98	5.65
2.5%	3.34	3.73	7.07
3.0%	4.01	4.47	8.48
3.5%	4.68	5.22	9.90
4.0%	5.35	5.96	11.31
4.5%	6.02	6.71	12.73
5.0%	6.68	7.45	14.13
5.5%	7.35	8.20	15.55
6.0%	8.02	8.94	16.96

SENATE TAXATION
EXHIBIT NO. 7
DATE 3/11/91
BILL NO. SB 326

REVENUE IMPACTS OF ALTERNATIVE RETIREMENT INCOME BLANKET EXCLUSION LEVELS
(millions of dollars)

Exclusion	FY92	FY93	Biennium
$ 0	18.91	20.80	39.71
$ 3,600	10.43	11.47	21.90
$ 4,000	9.70	10.67	20.38
$ 4,500	8.89	9.78	18.68
$ 5,000	8.19	9.01	17.20
$ 6,000	6.81	7.49	14.31
$ 7,000	5.61	6.18	11.79
$ 8,000	4.55	5.00	9.55
$ 9,000	3.36	3.99	7.62
$10,000	2.82	3.10	5.92
$11,000	2.14	2.36	4.50
$12,000	1.55	1.70	3.25

SENATE TAXATION
EXHIBIT NO. 7
DATE 3/11/91
SB 226

REVENUE IMPACTS OF ALTERNATIVE RETIREMENT INCOME BLANKET EXCLUSION LEVELS
(millions of dollars)

Exclusion	FY92	FY93	Biennium
$ 4,000	9.70	10.67	20.38
$ 4,500	8.89	9.78	18.68
$ 5,000	8.19	9.01	17.20
$ 7,000	5.61	6.18	11.79

EXHIBIT 8
DATE 3/11/91
BILL NO. SB 336

Amendments to Senate Bill No. 226
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
March 7, 1991

1. Title, lines 7 through 9.
Strike: "A" on line 7 through "LESS" on line 9
Insert: "AN EXEMPTION OF $3,600 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE, AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE FOR AN ADJUSTMENT PAYMENT TO RETIREES OF STATE, LOCAL, AND TEACHER RETIREMENT SYSTEMS WHO ARE MONTANA RESIDENTS"

2. Title, line 9.
Strike: "15-30-101,"

3. Title, line 11.
Following: "19-8-805,"
Insert: "19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003,"

4. Title, lines 11 and 12.
Strike: "REPEALING" on line 11 through "MCA;" on line 12

5. Page 1.
Following: line 15
Insert: " WHEREAS, the State of Montana desires to tax federal, state, and private retirement benefits equally; and

WHEREAS, the State of Montana has in the past provided its employees with a benefit of employment through its tax system; and

WHEREAS, the Legislature desires and encourages qualified employees to enter and remain in public service; and

WHEREAS, it is the policy of the State of Montana to encourage public employees who become superannuated or incapacitated to retire and, to that end, to provide sufficient benefits to provide for retirement; and

WHEREAS, the Legislature wishes to encourage all retired state, ~~local, and school employees~~ to remain within Montana to provide a critical mass of retired persons who use certain services and facilities that are important to retired persons and that may keep and perhaps entice ~~all~~ additional retired persons into the state; and

WHEREAS, the Legislature has in the past granted increases in retirement benefits in a manner designed to provide relatively greater increases to those retirees who were employed during the years of low wages and whose benefits are relatively small; and

WHEREAS, the Legislature therefore grants an increase in benefits to its former public employees who are residents of the state to provide compensation to encourage them to remain in Montana; and

~~WHEREAS, the Legislature is concerned about the "compression" of retirement benefits and desires to provide relatively greater increases to those with higher retirement~~

benefits.

STATEMENT OF INTENT

A statement of intent is required for this bill because the public employees' retirement board and the teachers' retirement board must establish a percentage rate to provide a uniform adjustment payment rate to all members of public retirement systems as provided in [section 4]."

6. Pages 1 through 20.
Strike: everything after the enacting clause
Insert: "Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) all benefits, not in excess of $3,600, received:

(i) under the Federal Employees' Retirement Act;

(ii) under the public employee retirement laws of ~~a~~ Montana or another state ~~other than Montana~~; or

(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;

~~(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;~~

~~(e) all benefits paid under The Public Employees' Retirement System Act which are specified as exempt from taxation by 19-3-105;~~

~~(f) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;~~

~~(g)~~(d) all Montana income tax refunds or tax refund credits ~~thereof~~;

~~(h) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their surviving spouses and orphans or specified as exempt from taxation by 19-13-1003;~~

~~(i) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005;~~

~~(j)~~(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

~~(k)~~(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

~~(l)~~(g) all benefits received under the workers' compensation laws;

~~(m)~~(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

~~(n) all benefits paid under an optional retirement program that are specified as exempt from taxation by 19-21-212; and~~

~~(o)~~(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange".

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to

determine the amount of income or loss of the partnership or small business corporation.

(6) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(7) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(8) A person receiving benefits described in ~~subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than $3,600, in which case the person may~~ subsection (2)(c) shall combine benefits specified in subsections (2)(c)(i) through (2)(c)(iii) to exclude ~~up to~~ not more than a total of $3,600 from adjusted gross income. (Subsection ~~(2)(k)~~ (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

Section 2. Section 15-30-136, MCA, is amended to read:

"15-30-136. Computation of income of estates or trusts -- exemption. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) all benefits, not in excess of $3,600, received:

(i) as federal employees' retirement;

(ii) as retirement from public employment in ~~a~~ Montana or another state ~~other than Montana~~; or

(iii) as an annuity, pension, or endowment under private or corporate retirement plans or systems;

~~(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;~~

~~(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105;~~

~~(k) all benefits paid under the Montana highway patrol officers' retirement system that are specified as exempt from taxation by 19-6-705;~~

~~(l)~~(i) Montana income tax refunds or tax refund credits ~~thereof;~~

~~(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses~~

~~or children;~~

~~(n) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005~~.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202 is not in effect, net income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts properly paid or credited or required to be distributed for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

(6) A trust or estate excluding benefits under ~~subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than $3,600, in which case the trust or estate may~~ subsection (2)(h) must combine benefits specified in subsections (2)(h)(i) through (2)(h)(iii) to exclude ~~up to~~ not more than a total of $3,600 from net income."

NEW SECTION. Section 3. **Retirement adjustment -- annual deposit -- legislative appropriation.** (1) There is allocated ~~from the general fund~~ to the public employees' retirement board and the teachers' retirement board the amounts provided in subsection (2) for distribution to members of retirement systems as provided in [section 4].

(2) On or before May 1 of each year, the state treasurer shall pay to the public employees' retirement board and the teachers' retirement board an amount equal to 2.5% of the total benefits paid by both systems during the prior calendar year. In distributing the appropriations to the boards, the treasurer shall consult with the boards to determine the amounts necessary for uniform payments to members. The amount of the benefits must be certified to the treasurer by the public employees' retirement board and the teachers' retirement board no later than April 1 of each year. For the purpose of this section, the public employees' retirement board shall collect information and certify the amount of benefits paid pursuant to Title 19, chapters 10 and 11. Not later than February 15 of each year, the boards of trustees of local police retirement funds, provided in 19-10-201, and boards

of trustees of local fire department relief associations, provided in 19-11-104, shall submit reports on benefit payments containing information requested by the public employees' retirement board.

(3) This section provides for the allocation of money ~~from the general fund~~ to the public employees' retirement board and the teachers' retirement board for distribution to members. An allocation may not be made from the general fund until appropriated by the legislature.

NEW SECTION. Section 4. **Montana retirement adjustment payments -- public employees' retirement board.** (1) Not later than June 1 of each year, the public employees' retirement board and the teachers' retirement board shall fix and pay to those members entitled to it an annual adjustment payment. The adjustment payment is determined for each system based upon the benefits paid by the system in the prior calendar year and on the annual benefit to which each Montana resident member of the system is entitled.

(2) (a) The public employees' retirement board shall allocate money appropriated for retirement adjustment to the public retirement systems in Title 19, chapters 3 and 5 through 13. The allocation to each system must be made based upon the annual amount each system's benefits payments bears to the amount paid by all of the systems specified in this subsection.

(b) The teachers' retirement board shall administer the money appropriated for retirement adjustment to the teachers' retirement system in Title 19, chapter 4.

(3) (a) Each member of a system listed in subsection (2) who is a resident of the state and who is entitled to an annual benefit is entitled to a retirement adjustment payment. Each retirement system specified in subsection (2), through the public employees' retirement board, the teachers' retirement board, or a local retirement board of trustees, as appropriate, shall distribute its allocation of the money appropriated for retirement adjustment to its members entitled to adjustment payments. The governing board of each system set forth in subsection (2) shall provide an annual adjustment payment that is a percentage of annual benefits.

(b) The methodology that the public employees' retirement board and the teachers' retirement board use to calculate adjustments for systems administered by them must be adopted by rule pursuant to Title 2, chapter 4.

(c) For the purposes of this section, a "Montana resident" means a person domiciled in the state and any person who maintains a permanent place of abode within the state.

Section 5. Section 19-3-105, MCA, is amended to read:

"**19-3-105. Exemption from taxes and legal process.** The right of a person to a retirement allowance or any other benefit under this chapter and the ~~moneys~~ money in the fund created under this chapter ~~is~~ are not:

(1) subject to execution, garnishment, attachment, or any other process;

(2) subject to state, county, or municipal taxes except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-3-703 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-3-701; or

(3) assignable except as in this chapter specifically provided."

Section 6. Section 19-4-706, MCA, is amended to read:

"19-4-706. Exemption from taxation and legal process. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a withdrawal paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 7. Section 19-5-704, MCA, is amended to read:

"19-5-704. Exemption from taxes and legal process. (1) ~~Any money~~ Money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these ~~shall be~~ is exempt from ~~any state or municipal tax and from~~ levy, sale, garnishment, attachment, or any other process ~~whatsoever~~ and ~~shall be~~ is unassignable except as specifically provided in 19-5-705.

(2) The first $3,600 received under this chapter is exempt from state, county, or municipal taxation."

Section 8. Section 19-6-705, MCA, is amended to read:

"19-6-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-6-706."

Section 9. Section 19-7-705, MCA, is amended to read:

"19-7-705. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

Section 10. Section 19-8-805, MCA, is amended to read:

"19-8-805. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

Section 11. Section 19-9-1005, MCA, is amended to read:

"19-9-1005. Exemption from taxes. Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except for:

(1) a retirement allowance received in excess of $3,600; or

(2) a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 12. Section 19-10-504, MCA, is amended to read:

"19-10-504. Protection of benefits from legal process and taxation. (1) The benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-10-505.

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 13. Section 19-11-612, MCA, is amended to read:

"19-11-612. Protection of benefits from legal process and taxation **-- nonassignability.** (1) Any payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum so assigned.

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 14. Section 19-12-407, MCA, is amended to read:

"19-12-407. Payment of pension benefits -- exemption from

taxation. (1) All payments under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the beneficiary as provided in 19-12-405(1).

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 15. Section 19-13-1003, MCA, is amended to read:

"**19-13-1003. Exemption from taxes.** Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except for:

(1) the retirement allowance received in excess of $3,600; or

(2) refunds paid under 19-13-602 of the member's contributions picked up by an employer after June 30, 1987, as provided in 19-13-601."

Section 16. Section 19-21-212, MCA, is amended to read:

"**19-21-212. Exemption from taxation, legal process, and assessments.** All contracts, benefits, and contributions under the optional retirement program and the earnings thereon are:

(1) except for a retirement allowance received in excess of $3,600, exempt from any state, county, or municipal tax;

(2) not subject to execution, garnishment, attachment, or other process;

(3) not covered or assessable by an insurance guaranty association; and

(4) unassignable except as specifically provided in the contracts."

NEW SECTION. Section 17. **Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

NEW SECTION. Section 18. **Codification instruction.** [Sections 3 and 4] are intended to be codified as an integral part of Title 19, and the provisions of Title 19 apply to [sections 3 and 4].

NEW SECTION. Section 19. **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990."

Senate Taxation
EXHIBIT NO. 9
DATE 3/11/91
BILL NO. SB 226

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 226 (first reading copy -- white), respectfully report that Senate Bill No. 226 be amended and as so amended do pass:

1. Title, lines 7 through 9.
Strike: "A" on line 7 through "LESS" on line 9
Insert: "AN EXEMPTION OF $3,600 FROM TAXATION OF BENEFITS FROM FEDERAL, STATE, AND PRIVATE RETIREMENT, ANNUITY, PENSION, AND ENDOWMENT PLANS OR SYSTEMS; TO PROVIDE FOR AN ADJUSTMENT PAYMENT TO RETIREES OF STATE, LOCAL, AND TEACHER RETIREMENT SYSTEMS WHO ARE MONTANA RESIDENTS"

2. Title, line 9.
Strike: "15-30-101,"

3. Title, line 11.
Following: "19-8-805,"
Insert: "19-9-1005, 19-10-504, 19-11-612, 19-12-407, 19-13-1003,"

4. Title, lines 11 and 12.
Strike: "REPEALING" on line 11 through "MCA;" on line 12

5. Page 1.
Following: line 15
Insert: " WHEREAS, the State of Montana desires to tax federal, state, and private retirement benefits equally; and

WHEREAS, the State of Montana has in the past provided its employees with a benefit of employment through its tax system; and

WHEREAS, the Legislature desires and encourages qualified employees to enter and remain in public service; and

WHEREAS, it is the policy of the State of Montana to encourage public employees who become superannuated or incapacitated to retire and, to that end, to provide sufficient benefits to provide for retirement; and

WHEREAS, the Legislature wishes to encourage all retired persons to remain within Montana to provide a critical mass of retired persons who use certain services and facilities that are important to retired persons and that may keep and perhaps entice other retired persons into the state; and

WHEREAS, the Legislature has in the past granted increases in retirement benefits in a manner designed to provide relatively greater increases to those retirees who were employed during the years of low wages and whose benefits are relatively small; and

WHEREAS, the Legislature therefore grants an increase in benefits to its former public employees who are residents of the state to provide compensation to encourage them to remain in Montana.

STATEMENT OF INTENT

A statement of intent is required for this bill because the public employees' retirement board and the teachers' retirement board must establish a percentage rate to provide a uniform adjustment payment rate to all members of public retirement systems as provided in [section 4]."

6. Pages 1 through 20.
Strike: everything after the enacting clause
Insert: "Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S, of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) all benefits, not in excess of $3,600, received:

(i) under the Federal Employees' Retirement Act;

(ii) under the public employee retirement laws of ~~a~~ Montana or another state ~~other than Montana~~; or

(iii) as an annuity, pension, or endowment under any private or corporate retirement plan or system;

~~(d) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;~~

the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(6) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(7) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(8) A person receiving benefits described in ~~subsections (2)(d) through (2)(f), (2)(h), or (2)(i) may not exclude benefits described in subsection (2)(c) from adjusted gross income unless the benefits received under subsections (2)(d) through (2)(f), (2)(h), or (2)(i) are less than $3,600, in which case the person may~~ subsection (2)(c) shall combine benefits specified in subsections (2)(c)(i) through (2)(c)(iii) to exclude up to not more than a total of $3,600 from adjusted gross income.

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) all benefits, not in excess of $3,600, received:

(i) as federal employees' retirement;

(ii) as retirement from public employment in a Montana or another state ~~other than Montana~~; or

(iii) as an annuity, pension, or endowment under private or corporate retirement plans or systems;

~~(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;~~

~~(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105;~~

~~(k) all benefits paid under the Montana highway patrol officers' retirement system that are specified as exempt from taxation by 19-6-705;~~

~~(l)~~(i) Montana income tax refunds or tax refund credits ~~thereof;~~

~~(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses or children;~~

~~(n) all benefits paid under the municipal police officers' retirement system that are specified as exempt from taxation by 19-9-1005~~.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202 is not in effect, net income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts properly paid or credited or required to be distributed for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(5) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and 15-30-112(8).

(6) A trust or estate excluding benefits under ~~subsections (2)(i) through (2)(k), (2)(m), or (2)(n) may not exclude benefits described in subsection (2)(h) from net income unless the benefits received under subsections (2)(i) through (2)(k), (2)(m), or (2)(n) are less than $3,600, in which case the trust or estate may~~ subsection (2)(h) must combine benefits specified in subsections (2)(h)(i) through (2)(h)(iii) to exclude ~~up to~~ not more than a total of $3,600 from net income."

NEW SECTION. Section 3. Retirement adjustment -- annual deposit. (1) There is allocated to the public employees' retirement board and the teachers' retirement board the amounts provided in subsection (2) for distribution to members of retirement systems as provided in [section 4].

(2) On or before May 1 of each year, the state treasurer shall pay to the public employees' retirement board and the teachers' retirement board an amount equal to 2% of the total benefits paid by both systems during the prior calendar year. In distributing the appropriations to the boards, the treasurer shall consult with the boards to determine the amounts necessary for uniform payments to members. The amount of the benefits must be certified to the treasurer by the public employees' retirement board and the teachers' retirement board no later than April 1 of each year. For the purpose of this section, the public employees' retirement board shall collect information and certify the amount of benefits paid pursuant to Title 19, chapters 10 and 11. Not later than February 15 of each year, the boards of trustees of local police retirement funds, provided in 19-10-201, and boards of trustees of local fire department relief associations, provided in 19-11-104, shall submit reports on benefit payments containing information requested by the public employees' retirement board.

NEW SECTION. Section 4. Montana retirement adjustment payments -- public employees' retirement board. (1) Not later than June 1 of each year, the public employees' retirement board and the teachers' retirement board shall fix and pay to those members entitled to it an annual adjustment payment. The adjustment payment is determined for each system based upon the benefits paid by the system in the prior calendar year and on the annual benefit to which each Montana resident member of the system is entitled.

(2) (a) The public employees' retirement board shall allocate money appropriated for retirement adjustment to the public retirement systems in Title 19, chapters 3 and 5 through 13. The allocation to each system must be made based upon the annual amount each system's benefits payments bears to the amount paid by all of the systems specified in this subsection.

(b) The teachers' retirement board shall administer the money appropriated for retirement adjustment to the teachers' retirement system in Title 19, chapter 4.

(3) (a) Each member of a system listed in subsection (2) who is a resident of the state and who is entitled to an annual benefit is entitled to a retirement adjustment payment. Each retirement system specified in subsection (2), through the public employees' retirement board, the teachers' retirement board, or a local retirement board of trustees, as appropriate, shall distribute its allocation of the money appropriated for retirement adjustment to its members entitled to adjustment payments. The governing board of each system set forth in subsection (2) shall provide an annual adjustment payment that is a percentage of annual benefits.

(b) The methodology that the public employees' retirement board and the teachers' retirement board use to calculate adjustments for systems administered by them must be adopted by rule pursuant to Title 2, chapter 4.

(c) For the purposes of this section, a "Montana resident" means a person domiciled in the state and any person who maintains a permanent place of abode within the state.

Section 5. Section 19-3-105, MCA, is amended to read:

"**19-3-105. Exemption from taxes and legal process.** The right of a person to a retirement allowance or any other benefit under this chapter and the ~~moneys~~ money in the fund created under this chapter ~~is~~ are not:

(1) subject to execution, garnishment, attachment, or any other process;

(2) subject to state, county, or municipal taxes except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-3-703 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-3-701; or

(3) assignable except as in this chapter specifically provided."

Section 6. Section 19-4-706, MCA, is amended to read:

"**19-4-706. Exemption from taxation and legal process.** The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a withdrawal paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in this chapter."

Section 7. Section 19-5-704, MCA, is amended to read:

"**19-5-704. Exemption from taxes and legal process.** (1) ~~Any money~~ Money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these ~~shall be~~ is exempt from ~~any state or municipal tax and from~~ levy, sale, garnishment, attachment, or any other process ~~whatsoever~~ and ~~shall be~~ is unassignable except as specifically provided in 19-5-705.

(2) The first $3,600 received under this chapter is exempt from state, county, or municipal taxation."

Section 8. Section 19-6-705, MCA, is amended to read:

"**19-6-705. Exemption from taxes and legal process.** Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-6-706."

Section 9. Section 19-7-705, MCA, is amended to read:

"**19-7-705. Exemption from taxes and legal process.** Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

Section 10. Section 19-8-805, MCA, is amended to read:

"**19-8-805. Exemption from taxes and legal process.** Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these is:

(1) exempt from any state, county, or municipal tax except for:

(a) a retirement allowance received in excess of $3,600; or

(b) a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

Section 11. Section 19-9-1005, MCA, is amended to read:

"**19-9-1005. Exemption from taxes.** Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except for:

(1) a retirement allowance received in excess of $3,600; or

(2) a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 12. Section 19-10-504, MCA, is amended to read:

"**19-10-504. Protection of benefits from legal process and taxation.** (1) The benefits provided for in this part are not subject to execution, garnishment, attachment, or the operation of bankruptcy, insolvency, or other process of law and are unassignable except as specifically provided in 19-10-505.

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 13. Section 19-11-612, MCA, is amended to read:

"**19-11-612. Protection of benefits from legal process and taxation -- nonassignability.** (1) Any payments made or to be made under this chapter are not subject to judgments, garnishment, execution, or other legal process. A person entitled to a pension may not assign the right, and the association and trustees may not recognize any assignment or pay over any sum so assigned.

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 14. Section 19-12-407, MCA, is amended to read:

"**19-12-407. Payment of pension benefits -- exemption from taxation.** (1) All payments under the volunteer firefighters' pension plan must be approved by the board and paid by warrants drawn upon the pension trust fund, payable to the order of the individual qualified volunteer firefighter or the beneficiary as provided in 19-12-405(1).

(2) The first $3,600 of benefits received under this part are exempt from state, county, and municipal taxation."

Section 15. Section 19-13-1003, MCA, is amended to read:

"19-13-1003. **Exemption from taxes.** Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax except for:

(1) the retirement allowance received in excess of $3,600; or

(2) refunds paid under 19-13-602 of the member's contributions picked up by an employer after June 30, 1987, as provided in 19-13-601."

Section 16. Section 19-21-212, MCA, is amended to read:

"19-21-212. **Exemption from taxation, legal process, and assessments.** All contracts, benefits, and contributions under the optional retirement program and the earnings thereon are:

(1) except for a retirement allowance received in excess of $3,600, exempt from any state, county, or municipal tax;

(2) not subject to execution, garnishment, attachment, or other process;

(3) not covered or assessable by an insurance guaranty association; and

(4) unassignable except as specifically provided in the contracts."

NEW SECTION. Section 17. **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 18. **Codification instruction.** [Sections 3 and 4] are intended to be codified as an integral part of Title 19, and the provisions of Title 19 apply to [sections 3 and 4].

NEW SECTION. Section 19. **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990."

Signed: _____
Mike Halligan, Chairman

3-11-91
Amd. Coord.

SB 3-11 1:50
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/11/91 SB Bill No. 226 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN	X	
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG	X	
SEN. HARP	X	
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE		X
SEN. DOHERTY		X

Secretary

Chairman

Motion: My Senator Time that SB-226 Do Pass Do Amended

Alec Hansen, Montana League of Cities and Towns, stated that they have seen how tax increment financing can work. Tax increment financing is one of the most affective economic development tools available. If the Legislature has one common interest, its finding jobs and development opportunities for Montana. SB 236 simply extends the authority of tax increment financing.

Larry Fasbender, Montana Council of Co-ops, provided and read a letter from **Nathan Byrd, Equity Supply Company. EXHIBIT 4**

REP. WANZENRIED, Kalispell, went on record in support of SB 236.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. HARP made no closing statement.

HEARING ON SB 226

Presentation and Opening Statement by Sponsor:

SEN. HARP, Senate District 4, Kalispell, stated SB 226 has been amended and changed from its original introduction. It was requested by the DOR and is part of the **Governor's** proposal as far as taking care of the problem that occurred as a result of Davis vs Michigan court decision which basically changed how we tax retirement income in Montana. Currently, we are not taxing state or federal retirees at the $3,600 exclusion level. Prior to the Davis Decision, we all recognized that state employee were exempted and federal retirees were taxed at the $3,600 level. Many things have changed since then. In the 1989 Legislature, we fought this issue for a considerable amount of time and walked away from it. When we walked away from it, it cost the state between $15 and $16 million dollars.

The committee will here testimony from state employees who say that it was agreed upon that their retirement would not be taxed. You will here from the retired federal employees that based on the Davis Decision, they should not be treated any differently than the state employees. You will here from the private sector in that they can be discriminated against as far as how we treat retirement income.

This is the session that we must absolutely decide what we are going to do with retirement income. He provided the committee with suggested amendments prepared by DOR. **EXHIBIT 5**

Announcements: **CHAIR HARRINGTON SUSPENDED THE HEARING ON SB 226 TO TAKE UP THE HEARING ON SB 370.**

EXHIBIT 5
DATE 4-5-91
HB SB226

Amendments to Senate Bill 226
2d. Reading Copy

Prepared by the Department of Revenue
March 13, 1991

The bill excludes from tax $3,600 of income received "under the Federal Employees' Retirement Act." No such act exists. The department's amendment #2 provides a definition of retirement income which includes all types of retirement income both private and public.

Amendment #4 removes the $3,600 exclusion from the computation of trust or estate income.

1. Title, line 14.
   Following: "AMENDING SECTIONS"
   Insert: "15-30-101,"

2. Page 3.
   Following: line 7
   Insert: "Section 1. Section 15-30-101, MCA, is amended to read: "15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by subsections (7) and (8) of 15-30-112, in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Department" means the department of revenue.

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(5) "Fiduciary" means a guardian, trustee, executor,

administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(10) "Knowingly" is as defined in 45-2-101.

(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(13) "Purposely" is as defined in 45-2-101.

(14) "Pension and annuity income" means: (a) systematic payments of a definitely determinable amount from a qualified pension plan as that term is used in IRC 401 or systematic payments received as the result of contributions made to a qualified pension plan which are paid to the recipient or recipient's beneficiary upon the cessation of employment; or,

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States; or,

(c) lump-sum distributions from pension and/or profit sharing plans to the extent that such distributions are included in federal adjusted gross income or,

(d) distributions from individual retirement, deferred compensation and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that such distributions are not deemed to be premature distributions for federal income tax purposes, or

(e) amounts after cessation of regular employment received from fully matured privately purchased annuity contracts.

~~(14)~~ 15 "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(15)~~ 16 "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(16)~~ 17 "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(17)~~ 18 "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(18)~~ 19 "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Renumber: subsequent sections

3. Page 4.
Following: line 12
Strike: subsection (c) in its entirety
Insert: "(c) The first $3,600 of all pension and annuity income received as defined in 15-30-101(14).

4. Page 11.
Following: line 5
Strike: subsection (h) in its entirety
Renumber: subsequent subsections

5. Page 13.
Following: line 2
Strike: subsection (6) in its entirety